

111TH CONGRESS  
2D SESSION

# S. 3581

To implement certain defense trade treaties.

---

IN THE SENATE OF THE UNITED STATES

JULY 14, 2010

Mr. LUGAR introduced the following bill; which was read twice and referred  
to the Committee on Foreign Relations

---

## A BILL

To implement certain defense trade treaties.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Defense Trade Treaty  
5 Implementation Act of 2010”.

6 **SEC. 2. EXEMPTION FROM REQUIREMENTS FOR BILATERAL**  
7 **AGREEMENTS.**

8 Section 38(j)(1) of the Arms Export Control Act (22  
9 U.S.C. 2778(j)(1)) is amended—

10 (1) in the subparagraph heading for subpara-  
11 graph (B), by inserting “FOR CANADA” after “EX-  
12 CEPTION”; and

1           (2) by adding at the end the following new sub-  
2 paragraph:

3           “(C) EXCEPTION FOR DEFENSE TRADE  
4 COOPERATION TREATIES.—The requirement to  
5 conclude a bilateral agreement in accordance  
6 with subparagraph (A) shall not apply with re-  
7 spect to an exemption from the licensing re-  
8 quirements of this Act for the export of defense  
9 items to give effect to any of the following de-  
10 fense trade cooperation treaties, provided that  
11 the treaty has entered into force pursuant to  
12 Article II, Section 2, clause 2 of the Constitu-  
13 tion of the United States:

14           “(i) The Treaty Between the Govern-  
15 ment of the United States of America and  
16 the Government of the United Kingdom of  
17 Great Britain and Northern Ireland Con-  
18 cerning Defense Trade Cooperation, done  
19 at Washington and London June 21 and  
20 26, 2007 (and any implementing arrange-  
21 ment thereto).

22           “(ii) The Treaty Between the Govern-  
23 ment of the United States of America and  
24 the Government of Australia Concerning  
25 Defense Trade Cooperation, done at Syd-

1                   ney September 23, 2007 (and any imple-  
2                   menting arrangement thereto).”.

3 **SEC. 3. ENFORCEMENT.**

4           (a) CRIMINAL VIOLATIONS.—Section 38(c) of such  
5 Act is amended by striking “this section or section 39,  
6 or any rule or regulation issued under either section” and  
7 inserting “this section, section 39, a treaty referred to in  
8 subsection (j)(1)(C), or any rule or regulation issued  
9 under this section or section 39, including any rule or reg-  
10 ulation issued under this section to implement or enforce  
11 a treaty referred to in subsection (j)(1)(C) or an imple-  
12 menting arrangement pursuant to such treaty”.

13          (b) ENFORCEMENT POWERS OF PRESIDENT.—Sec-  
14 tion 38(e) of such Act is amended by striking “defense  
15 services,” and inserting “defense services, including de-  
16 fense articles and defense services exported or imported  
17 pursuant to a treaty referred to in subsection (j)(1)(C),”.

18          (c) NOTIFICATION REGARDING EXEMPTIONS FROM  
19 LICENSING REQUIREMENTS.—Section 38(f) of such Act  
20 is amended by adding at the end the following new para-  
21 graph:

22           “(4) Paragraph (2) shall not apply with respect to  
23 an exemption under subsection (j)(1)(A) to give effect to  
24 a treaty referred to in subsection (j)(1)(C) (and any imple-  
25 menting arrangements to such treaty), provided that the

1 President promulgates regulations to implement and en-  
 2 force such treaty under this section and section 39.”.

3 **SEC. 4. CONGRESSIONAL NOTIFICATION.**

4 (a) ELIGIBILITY FOR DEFENSE ARTICLES OR DE-  
 5 FENSE ARTICLES.—Section 3(d)(3)(A) of such Act (22  
 6 U.S.C. 2753(d)(3)(A)) is amended by inserting after “ap-  
 7 proved under section 38 of this Act” the following: “or  
 8 has been exempted from the licensing requirements of this  
 9 Act pursuant to section 38(j) of this Act”.

10 (b) PRESIDENTIAL CERTIFICATIONS.—

11 (1) EXPORT LICENSES.—Section 36(c) of such  
 12 Act (22 U.S.C. 2776(c)) is amended by adding at  
 13 the end the following new paragraph:

14 “(6) An export pursuant to a treaty referred to in  
 15 section 38(j)(1)(C) of this Act to which the provisions of  
 16 paragraph (1) would apply absent an exemption granted  
 17 under section 38(j)(1) of this Act shall not take place until  
 18 15 days after the President has submitted a certification  
 19 with respect to such export in a similar manner, and con-  
 20 taining comparable information, as required under para-  
 21 graph (1).”.

22 (2) COMMERCIAL TECHNICAL ASSISTANCE OR  
 23 MANUFACTURING LICENSING AGREEMENTS.—Sec-  
 24 tion 36(d) of such Act (22 U.S.C. 2776(d)) is

1       amended by adding at the end the following new  
2       paragraph:

3       “(6) An export pursuant to a treaty referred to in  
4       section 38(j)(1)(C) of this Act to which the provisions of  
5       paragraph (1) would apply absent an exemption granted  
6       under section 38(j)(1) of this Act shall not take place until  
7       15 days after the President has submitted a certification  
8       with respect to such export in a similar manner, and con-  
9       taining comparable information, as required under para-  
10      graph (1).”.

11   **SEC. 5. IMPLEMENTING REGULATIONS.**

12       The President is authorized to issue regulations pur-  
13      suant to the Arms Export Control Act (22 U.S.C. 2751  
14      et seq.) to implement and enforce the Treaty Between the  
15      Government of the United States of America and the Gov-  
16      ernment of the United Kingdom of Great Britain and  
17      Northern Ireland Concerning Defense Trade Cooperation,  
18      done at Washington and London June 21 and 26, 2007  
19      (and any implementing arrangement thereto), and the  
20      Treaty Between the Government of the United States of  
21      America and the Government of Australia Concerning De-  
22      fense Trade Cooperation, done at Sydney September 23,  
23      2007 (and any implementing arrangement thereto), con-  
24      sistent with other applicable provisions of the Arms Ex-  
25      port Control Act, as amended by this Act, and with the

1 terms of any resolution of advice and consent adopted by  
2 the Senate with respect to either treaty.

3 **SEC. 6. RULE OF CONSTRUCTION.**

4       Nothing in this Act, or in the Treaty Between the  
5 Government of the United States of America and the Gov-  
6 ernment of the United Kingdom of Great Britain and  
7 Northern Ireland Concerning Defense Trade Cooperation,  
8 done at Washington and London on June 21 and 26, 2007  
9 (and any implementing arrangement thereto), or in the  
10 Treaty Between the Government of the United States of  
11 America and the Government of Australia Concerning De-  
12 fense Trade Cooperation, done at Sydney, September 23,  
13 2007 (and any implementing arrangement thereto), or in  
14 any regulation issued to implement either treaty, shall be  
15 construed to modify or supersede any provision of law or  
16 regulation other than the Arms Export Control Act (22  
17 U.S.C. 2751 et seq.), as amended by this Act, and regula-  
18 tions issued pursuant to such Act.

○